

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

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OWEN W. BARNABY,

Plaintiff, **DECLARATION OF THADDEUS  
HACKWORTH IN OPPOSITION TO  
PLAINTIFF'S MOTION FOR  
DEFAULT JUDGMENT**

v.

MICHIGAN STATE GOVERNMENT, et al.

Defendants. No. 1:22-cv-01146 (RJJ)(SJB)

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**THADDEUS HACKWORTH**, pursuant to 28 U.S.C. § 1746 and subject to the  
penalty of perjury, declares that the following is true and correct:

1. I am Corporate Counsel for Berrien County, attorney for Berrien County in the  
above-captioned action. As such, I am familiar with the facts and circumstances of this action.

2. On November 22, 2022 and November 28, 2022, I communicated via telephone  
Plaintiff Owen Barnaby, who informed me that he had filed a new civil action in the Eastern  
District of Michigan against Berrien County and other defendants related to a tax foreclosure of  
real property that had been previously litigated in Barnaby v Witkowski, No 1:14-CV-1279,  
2018 WL 387961 (W.D. Mich. Jan. 12, 2018), aff'd, 758 F App'x 431 (6th Cir 2018).

3. During these conversations, I informed Plaintiff that he would need to effect  
proper service of process over the defendants in the action. I did not agree to waive service on  
behalf of any defendant or accept service on behalf of any defendant. I did inform Plaintiff that  
he may send me a courtesy copy of the complaint if he wished to do so.

4. I receive and accept certified mail from various senders as a matter of course. On  
December 9, 2022, I received from Plaintiff a shipment sent by certified mail with restricted

delivery. I signed the return receipt acknowledgement and accepted the parcel. (ECF No. 29-1, PageID.113.)

5. Upon opening the parcel, I discovered it to contain ten copies of the Second Amended Complaint, along with an original summons for each of the following parties:

- a) Berrien County Government
- b) Berrien County Board of Commissioners
- c) James McGovern
- d) Bret Witskowski
- e) Lori D. Jarvis
- f) Shelly Weich
- g) McKinley R. Elliott
- h) Kathleen Culberson
- i) Donna B. Howard
- j) Lora L. Freehling

6. Several of the individuals identified above are not current Berrien County employees or officials, having left County service in the past (Witkowski, Jarvis, McGovern, and Culberson).

7. At no point have I received a notice and request for waiver from Plaintiff pursuant to Fed. R. Civ. P. 4(d) for any defendant.

8. Upon information and belief, none of the above-listed defendants have been properly served by Plaintiff.

Dated: St. Joseph, Michigan  
January 9, 2023

A handwritten signature in black ink, consisting of a stylized 'T' followed by a series of loops and a horizontal line extending to the right.

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THADDEUS HACKWORTH